

AO 106 (Rev. 04/10) Application for Search Warrant

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## UNITED STATES DISTRICT COURT

for the

Western District of Washington

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
DEPUTY  
BY

In the Matter of the Search of

(Briefly describe the property to be searched  
or identify the person by name and address)Six cellular devices (SUBJECT DEVICES 1-6),  
more particularly described in attachment A

Case No.

MJ18-482

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, attached and incorporated herein, for a list of items to be searched.

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachment B, attached and incorporated herein, for a list of items to be seized.

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

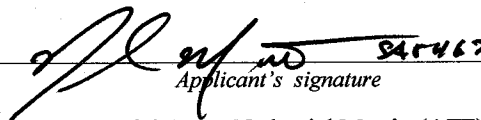
The search is related to a violation of:

Code Section	Offense Description
18 U.S.C. 922(g)(1)	Felon in Possession of a Firearm
21 U.S.C. 841(a)(1), 846	Distribution/Possession with Intent to Distribute Heroin
18 U.S.C. 924(c)	Possession of Firearms in Furtherance of Drug Trafficking Crimes

The application is based on these facts:

See the Affidavit of Special Agent Nathaniel Merritt (ATF)

- ☒ Continued on the attached sheet.  
☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

  
 Applicant's signature

Special Agent Nathaniel Merritt (ATF)

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/23/2018

  
 Judge's signature

City and state: Seattle, Washington

Hon. Mary Alice Theiler, United States Magistrate Judge

Printed name and title

**AFFIDAVIT**

STATE OF WASHINGTON )  
 ) SS  
 COUNTY OF KING )

I, Nathaniel Merritt, a Special Agent with the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), in Seattle, Washington, having been duly sworn, state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I am assigned to the Seattle, Washington, Field Office. I have been an ATF Special Agent since July 27, 2014. I graduated from the Criminal Investigator Training Program and the ATF Special Agent Basic Training Program, which are both located at the Federal Law Enforcement Training Center in Glynco, Georgia. I am responsible for investigating and enforcing violations of federal firearms laws. In addition to cases involving firearms, I have worked on several cases involving a controlled purchase of narcotics and received specific training toward the identification of different types of narcotics.

**PURPOSE OF AFFIDAVIT**

2. This Affidavit is submitted in support of an application to search six cellular devices, **SUBJECT DEVICES 1, 2, 3, 4, 5, and 6** (collectively, "**SUBJECT DEVICES 1-6**"), described in Attachment A, attached hereto and incorporated by this reference as if set forth fully herein. As further explained below, these devices were all recovered from a white Audi sedan bearing Washington license plate BIS8300. Suspect KEVIN TA was sitting in the driver's seat of the Audi when he was arrested on June 21, 2018 for distribution of controlled substances and a warrant.

a. **SUBJECT DEVICE 1** is an iPhone S Model A1634 ID: BCG-E2944A IC: 579C-E2944A in a black Otter Box case, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.

- b. **SUBJECT DEVICE 2** is an iPhone of unknown model in a Caseology case with no identifying number visible, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.
- c. **SUBJECT DEVICE 3** is an iPhone of unknown model in a Divi case with no identifying number visible, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.
- d. **SUBJECT DEVICE 4** is a Huawei Nexus Model H1511 bearing serial number 34B 7N 15803000159, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.
- e. **SUBJECT DEVICE 5** is a Galaxy S9 in a UAG case with no identifying number visible, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.
- f. **SUBJECT DEVICE 6** is a LG Model k330 S/N: 601CYUK075734, recovered from a backpack in the trunk of the white Audi and believed to belong to KEVIN TA.

3. **SUBJECT DEVICES 1-6** are currently secured in ATF custody at the Seattle Field Division Office, located at 1521 First Avenue South, Suite 600, in Seattle, Washington.

4. As set forth below, there is probable cause to believe that **SUBJECT DEVICES 1-6** contain evidence, fruits and instrumentalities of the following crimes: felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1), distribution and possession with intent to distribute heroin in violation of Title 21, United States Code, Section 841(a)(1), and possession of firearms in furtherance of drug trafficking, in violation of Title 18, United States Code, Section 924(c)(1)(A), as further described in Attachment B, attached hereto and incorporated by this reference as if set forth fully herein.

5. The information set forth in this Affidavit consists of information I have gathered and observed firsthand through the course of this investigation to date, as well as information relayed to me by other law enforcement officers, my review of law enforcement reports, and interviews of witnesses. Since this Affidavit is being submitted

1 for the limited purpose of obtaining a search warrant, I have not included every fact  
2 known to me concerning this investigation. I have set forth only the facts that I believe  
3 are essential to establish the necessary foundation for the issuance of such warrant.

4 **SUMMARY OF INVESTIGATION**

5 **A. Overdose investigation in May 2018.**

6 6. On May 6, 2018, KCSO deputies responded to two separate overdose calls  
7 originating from an apartment complex in Burien, Washington. The calls came about  
8 eight hours apart from the same apartment unit. Two brothers overdosed on the same bag  
9 of fentanyl. One brother survived and the other, DLM, did not.

10 7. On May 24, 2018, KCSO Detective Sergeant Myers and Detective Fitchett  
11 met with DLM's mother, TAM. She was present during both overdoses and provided a  
12 statement. During that conversation, TAM told Detective Fitchett that she accessed  
13 DLM's phone and found messages between DLM and KEVIN TA that discussed TA  
14 selling controlled substances to DLM. The conversation between DLM and TA took  
15 place via Facebook Messenger. The message timeline was consistent with the overdose  
16 and established a dealer/customer relationship between TA and DLM.

17 8. TAM provided written consent to search the phone and allowed detectives  
18 to capture screen shots of the Facebook messaging conversation between DLM and TA.  
19 During his Facebook conversation with DLM, "Kevin Ta" mentions driving a white  
20 Audi.

21 9. On May 25, 2018, Detective Fitchett met with TAM and DLM's brother at  
22 Precinct 4 in Burien, Washington. DLM's brother gave an audio-recorded statement that  
23 described his overdose and DLM's overdose. During that conversation, DLM's brother  
24 stated that he and DLM overdosed on drugs supplied by KEVIN TA.

25 **B. TA's Arrest on June 21, 2018.**

26 10. Between December 2017 and June 2018, the Bellevue Police Department  
27 conducted three controlled purchases of a controlled substances from KEVIN TA.  
28 Detective Fitchett was present for two of the controlled purchases. On June 15, 2018,

1 Detective Fitchett applied for and was granted a search warrant for the person of KEVIN  
2 TA and his residence.

3 11. On June 21, 2018, KCSO and Bellevue detectives executed a search  
4 warrant on KEVIN TA'S residence at 121 South 208th Street, in Des Moines,  
5 Washington. KEVIN TA was taken into custody while sitting in the driver's seat of a  
6 white Audi S4 sedan bearing license plate BIS8300. Just prior to his arrest, TA was seen  
7 carrying a backpack from the residence to the trunk of the Audi. When Detective Fitchett  
8 arrived on scene, he saw that the trunk of the Audi was open and next to the backpack  
9 was a large amount of drug packaging material in the form of small zip lock baggies.

10 12. Another individual, J.T., was detained in the driveway, and a third  
11 individual, M.K., was detained as she exited the residence.

12 13. During the initial sweep of the residence, the search warrant entry team saw  
13 a rifle and a plate of white powder in the downstairs bedroom (later identified as KEVIN  
14 TA's room). Members of the search warrant team donned safety gear and collected the  
15 white powder. The search warrant team and members of the Washington State Patrol  
16 Crime Laboratory cleared the residence for detectives to search.

17 14. M.K. was advised of her constitutional rights and interviewed by Detective  
18 Fitchett. M.K. stated she does not live at the location, but advised that she had recently  
19 been staying in TA's bedroom, located in the downstairs of the residence. M.K. was  
20 asked whether there was any fentanyl in the house, and she stated she did not think so.  
21 She believed the white powder on the plate was methamphetamine.

22 15. J.T. was detained and advised of his constitutional rights. J.T. was asked  
23 which room KEVIN TA lives in, and he stated that TA lives in the downstairs master  
24 bedroom. When J.T. was told that there were guns found inside of the house, J.T. stated  
25 that they belonged to his business partner. J.T. was asked if he had seen TA with any of  
26 the guns in the house, and J.T. stated yes.

27 16. KEVIN TA was advised of his constitutional rights and interviewed by  
28 Detective Fitchett. TA said that J.T. stays in an upstairs bedroom and that TA lives in the

1 downstairs bedroom. He further stated that M.K. had only been staying there the last few  
2 days.

3 17. During the execution of the search warrant, detectives located six  
4 handguns, a shotgun, a rifle, two bump stocks, ammunition, body armor, a digital scale,  
5 narcotics packaging, suspected fentanyl, methamphetamine and heroin. Almost all of the  
6 drugs and firearms were recovered from TA's bedroom along with documents of  
7 dominion and control in the name of KEVIN TA.

8 18. Detectives found one loaded .40 caliber handgun, a drug ledger, seven cell  
9 phones and approximately .7 grams of methamphetamine in an upstairs bedroom that J.T.  
10 admitted was his. J.T. was arrested by King County Sheriff's Detective Alex Hawley.

11 19. In the closet of TA's bedroom, detectives found:

- 12 i. One loaded LWRC AR type rifle;
  - 13 ii. Two bump stocks;
  - 14 iii. A loaded rifle magazine;
  - 15 iv. Ammunition of various calibers and other firearm accessories;
  - 16 v. A green folder containing various documents in the name of Kevin  
17 TA; and
  - 18 vi. Two safes.
- 19  
20

21 20. The safes were later found to contain a total of six handguns, and  
22 approximately two ounces of methamphetamine, two ounces of heroin, one gram of  
23 suspected fentanyl, and several fentanyl test strips. Due to the fentanyl hazard, deputies  
24 were unable to weigh the controlled substances out of the packaging.

25 21. The suspected methamphetamine and heroin were tested at the King  
26 County Medical Examiner's Office using the TruNarc machine, and the results provided  
27 a presumptive positive result for methamphetamine and heroin.  
28



1           22.     KEVIN TA was transported to King County Sheriff's Office Precinct 4 and  
2 again advised of his constitutional rights. He was also advised that the room was audio  
3 and video recorded. TA again waived his rights, acknowledged the recordings, and  
4 agreed to speak with detectives. During that interview, TA admitted that he sold drugs as  
5 his main source of income. TA said that all of the drugs located during the search warrant  
6 belonged to him and that he supplied drugs to M.K.. TA also stated the Audi contained  
7 heroin.

8           23.     ATF SA Catherine Cole, who has received specialized training in the  
9 recognition and identification of firearms and ammunition and their place of manufacture,  
10 examined the firearms recovered from TA's bedroom closet. Based on her knowledge  
11 and experience as a certified Interstate Nexus Expert, SA Cole determined that these  
12 firearms were not manufactured in the state of Washington. As a result, the firearms must  
13 have traveled in, and thereby affected, interstate or foreign commerce in order to be  
14 received or possessed in the state of Washington.

15 **C.     Search of the Audi.**

16           24.     On June 28, 2018, Bellevue Police Detective James Keene served a King  
17 County Superior Court search warrant on the white Audi S4 bearing Washington license  
18 plate BIS8300. This is the vehicle that TA was sitting in when he was arrested.

19           25.     **SUBJECT DEVICES 1, 2, 3, 4 and 5** were recovered from the front  
20 driver's seat area where TA was seated, as depicted in the photograph below.



26. In the center console area, Detective Keene found a wallet with TA's identification card and two separate stacks of cash totaling \$531.00.

27. In the trunk of the car, Detective Keene found two loaded firearms, a Smith and Wesson 9mm caliber handgun and a Glock 19 9mm handgun.

28. The trunk also contained a backpack. Detective Keene searched the backpack and recovered suspected heroin, suspected methamphetamine, and suspected fentanyl. Each of these items were later tested by the King County Medical Examiner's Office using the TruNarc machine, with presumptive positive results for heroin,<sup>um</sup> methamphetamine, ~~heroin~~<sup>um</sup>, and cocaine, respectively. Detective Keene also found **SUBJECT DEVICE 6** in the backpack, along with unused plastic baggies and a scale.



1 **D. TA's Criminal History.**

2 29. According to documents filed in King County Superior Court, Washington,  
3 TA has been convicted of Robbery in the First Degree, under cause number 12-1-04954-  
4 4, in King County Superior Court, Washington, on or about January 24, 2013. This crime  
5 is a felony under Washington law, punishable by a term of imprisonment exceeding one  
6 year. TA is therefore ineligible to possess firearms under state and federal law.

7 **COMMON CHARACTERISTICS OF DRUG DEALERS**

8 30. As a result of my training and experience, and based on my consultation  
9 with other agents and law enforcement officers, I have an understanding of the manner in  
10 which narcotics are distributed and the various roles played by individuals and groups in  
11 their distribution. I have encountered and have become familiar with various tools,  
12 methods, trends, paraphernalia, and related articles utilized by various traffickers in their  
13 efforts to import, conceal, and distribute controlled substances. I am also familiar with the  
14 manner in which drug traffickers use telephones, often cellular telephones, to conduct  
15 their unlawful operations. I am also familiar with the manner in which drug traffickers  
16 will use weapons to protect their drug activities and further its goals.

17 31. Based upon my training, experience, and conversations with other  
18 experienced officers and agents, I know that:

- 19 a. Drug trafficking conspiracies usually take place over several months or  
20 years, and continue to operate even when enforcement activity results in  
21 arrests and/or seizures of drugs and/or money.
- 22 b. Persons involved in the distribution of controlled substances typically will  
23 obtain and distribute drugs on a regular basis, much as a distributor of a  
24 legal commodity would purchase stock for sale. Similarly, such drug  
25 dealers will maintain an "inventory," which will fluctuate in size depending  
26 upon the demand for and the available supply of the product.
- 27 c. Those involved in the distribution of illicit drugs often communicate by  
28 telephone in connection with their illegal activities in order to set up

1 meetings with coconspirators, conduct drug transactions, or to arrange for  
2 the transportation drugs or drug proceeds.

- 3 d. Drug traffickers routinely change telephone numbers in an attempt to  
4 thwart law enforcement. When certain members of a drug trafficking  
5 organization change their telephone numbers, they typically call other  
6 members to alert them of the telephone number change.
- 7 e. Those involved in the distribution of illicit drugs often travel by car in  
8 connection with their illegal activities in order to meet with coconspirators,  
9 conduct drug transactions, or to transport drugs or drug proceeds.
- 10 f. Drug dealers use cellular telephones as a tool or instrumentality in  
11 committing their criminal activity. They use them to maintain contact with  
12 their suppliers, distributors, and customers. They prefer cellular telephones  
13 because, first, they can be purchased without the location and personal  
14 information that land lines require. Second, they can be easily carried to  
15 permit the user maximum flexibility in meeting associates, avoiding police  
16 surveillance, and traveling to obtain or distribute drugs. Third, they can be  
17 passed between members of a drug conspiracy to allow substitution when  
18 one member leaves the area temporarily. Since cellular phone use became  
19 widespread, every drug dealer I have contacted has used one or more  
20 cellular telephones for his or her drug business. I also know that it is  
21 common for drug traffickers to retain in their possession phones that they  
22 previously used, but have discontinued actively using, for their drug  
23 trafficking business. Based on my training and experience, the data  
24 maintained in a cellular telephone used by a drug dealer is evidence of a  
25 crime or crimes. This includes the following:
- 26  
27  
28

- 1           i.     The assigned number to the cellular telephone (known as the  
2                 mobile directory number or MDN), and the identifying  
3                 telephone serial number (Electronic Serial Number, or ESN),  
4                 (Mobile Identification Number, or MIN), (International  
5                 Mobile Subscriber Identity, or IMSI), or (International  
6                 Mobile Equipment Identity, or IMEI) are important evidence  
7                 because they reveal the service provider, allow us to obtain  
8                 subscriber information, and uniquely identify the telephone.  
9                 This information can be used to obtain toll records, to identify  
10                contacts by this telephone with other cellular telephones used  
11                by co-conspirators, to identify other telephones used by the  
12                same subscriber or purchased as part of a package, and to  
13                confirm if the telephone was contacted by a cooperating  
14                source.
- 15          ii.    The stored list of recent received, missed, and sent calls is  
16                 important evidence. It identifies telephones recently in  
17                 contact with the telephone user. This is valuable information  
18                 in a drug investigation because it will identify telephones  
19                 used by other members of the organization, such as suppliers,  
20                 distributors and customers, and it confirms the date and time  
21                 of contacts. If the user is under surveillance, it identifies what  
22                 number he called during or around the time of a drug  
23                 transaction or surveilled meeting. Even if a contact involves a  
24                 telephone user not part of the conspiracy, the information is  
25                 helpful (and thus is evidence) because it leads to friends and  
26                 associates of the user who can identify the user, help locate  
27                 the user, and provide information about the user. Identifying a  
28                 defendant's law-abiding friends is often just as useful as

1 identifying his drug-trafficking associates. The information is  
2 also valuable in the firearms context because it will identify  
3 telephones used by other individuals who are part of illegal  
4 firearms transactions, and confirm the date and time of  
5 contacts.

6 iii. Stored text messages are important evidence, similar to stored  
7 numbers. Agents can identify both drug associates, and  
8 friends of the user who likely have helpful information about  
9 the user, his location, and his activities.

10 iv. Photographs on a cellular telephone are evidence because  
11 they help identify the user, either through his or her own  
12 picture, or through pictures of friends, family, and associates  
13 that can identify the user. Pictures also identify associates  
14 likely to be members of the drug trafficking organization.  
15 Some drug dealers photograph groups of associates,  
16 sometimes posing with weapons and showing identifiable  
17 gang signs. Also, digital photos often have embedded  
18 "geocode" or GPS information embedded in them. Geocode  
19 information is typically the longitude and latitude where the  
20 photo was taken. Showing where the photo was taken can  
21 have evidentiary value. This location information is helpful  
22 because, for example, it can show where coconspirators meet,  
23 where they travel, and where assets might be located. Based  
24 on my training and experience in investigating numerous  
25 firearms possession and trafficking offenses, I am aware that  
26 when individuals who are prohibited from legally possessing  
27 firearms seek to acquire firearms, they typically seek to  
28 obtain the firearms from private sellers. A common way in

1 which these types of private firearm sales, also referred to as  
2 "street sales," are transacted is via electronic communications  
3 such as text message, email, and/or telephone calls. I know  
4 that cell phones are frequently used to arrange such  
5 transactions because of the flexibility and mobility they offer.  
6 I am further aware that when individuals are offering items of  
7 value for sale, such as firearms, it is common for them to take  
8 a photograph of the item and send it via text message or email  
9 to an interested party for their review, or to take a photograph  
10 of it to post/advertise it via social media or the internet.

11 During numerous investigations of firearms sales, I have  
12 found it to be common for buyer's or seller's cell phones to  
13 contain photographs of the firearms that were bought or sold.


- 14 v. Stored address records are important evidence because they  
15 show the user's close associates and family members, and  
16 they contain names and nicknames connected to phone  
17 numbers that can be used to identify suspects.

18 //

19 //

32. Based on the foregoing, I respectfully submit that there is probable cause to search **SUBJECT DEVICES 1-6**, more fully described in Attachment A, for evidence, fruits, and instrumentalities of the crimes of felon in possession of firearms, in violation of Title 18, United States Code, Section 922(g)(1), distribution and possession with intent to distribute controlled substances in violation of Title 21, United States Code, Sections 841(a)(1), and possession of firearms in furtherance of drug trafficking, in violation of 18, United States Code, Section 924(c)(1)(A), as further described in Attachment B.

The above-named agent provided a sworn statement attesting to the truth of the contents of the foregoing affidavit on this 23rd day of October, 2018.

  
HON. MARY ALICE THEILER  
United States Magistrate Judge



**ATTACHMENT A**

**Devices to Be Searched**

**SUBJECT DEVICE 1** is an iPhone S Model A1634 ID: BCG-E2944A IC: 579C-E2944A in a black Otter Box case, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.

**SUBJECT DEVICE 2** is an iPhone of unknown model in a Caseology case with no identifying number visible, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.

**SUBJECT DEVICE 3** is an iPhone of unknown model in a Divi case with no identifying number visible, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.

**SUBJECT DEVICE 4** is a Huawei Nexus Model H1511 bearing serial number 34B 7N 15803000159, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.

**SUBJECT DEVICE 5** is a Galaxy S9 in a UAG case with no identifying number visible, recovered from the driver's seat area of the white Audi and believed to belong to KEVIN TA.

**SUBJECT DEVICE 6** is a LG Model k330 S/N: 601CYUK075734, recovered from a backpack in the trunk of the white Audi and believed to belong to KEVIN TA.

**SUBJECT DEVICES 1-6** are currently stored in evidence at the ATF Seattle Field Office, located at 1521 First Avenue South, Suite 600, in Seattle, Washington.

With respect to **SUBJECT DEVICES 1-6**, the authority to search includes both the device itself and any associated SIM card, SD card, or other similar storage device found within **SUBJECT DEVICES 1-6** at the time of their seizure on June 21, 2018.

**ATTACHMENT B**

**Items to be Seized**

From **SUBJECT DEVICES 1-6** described in Attachment A of this warrant, the government is authorized to search for and seize the following items, which are evidence and/or fruits of the commission of the following crimes: felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1), distribution and possession with intent to distribute controlled substances in violation of Title 21, United States Code, Sections 841(a)(1), and possession of firearms in furtherance of drug trafficking crimes, in violation of Title 18, United States Code, Section 924(c):

- a. Assigned number and identifying telephone serial number (ESN, MIN, IMSI, or IMEI);
- b. Stored list of recent received, sent, and missed calls;
- c. Stored contact information;
- d. Stored photographs related to controlled substances, currency, drug packaging material, firearms, or other evidence of drug trafficking, and/or the user of the phone or suspected co-conspirators, including any metadata such as embedded GPS data associated with those photographs; and
- e. Stored text or chat messages related to possession or distribution of controlled substances and possession of firearms, including Apple iMessages, Facebook Messenger messages or other similar messaging services where the data is stored on the telephone.